HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.28851 of1997

20.8.2007

Between

Dr.R.Vanajalochana ..Petitioner

AND

The General Manager, Singareni Collieries, Ramagundem ..Respondent

:: JUDGMENT ::

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W.P. No.28851 of 1997

This writ petition has been instituted seeking directions to the respondent to pay the salary and allowances for the period of service rendered by the writ petitioner to the Singareni Collieries at Ramagundem duly adjusting certain period against the leave available at credit. The grievance of the petitioner was that while working as a Medical Officer in the Singareni Collieries, the writ petitioner had resigned from service on 2.5.1997 and requested the respondent to relieve her from duties with effect from 30.7.1997 and to settle the payment of salary and allowances for the 72 days of earned leave standing to her credit. She has also made a request for adjusting the outstanding leave towards the three months notice period. The respondent through the communication dated 7.8.1997 directed the petitioner to pay a sum of Rs.9,762.95 towards the liquidated damages for breach of the conditions of the Bond executed by her and a further sum of Rs.4,762.95 towards the balance notice period salary for 15 days after adjusting 77 days of privilege leave standing to her credit so as to enable consideration of her application of resignation to her service.

The respondent has filed counter affidavit pointing out that in accordance with the stipulations contained in the Service Regulations, notice of 90 days period has got to be issued to bring about voluntary

cessation of relationship of master and servant and since there was only 75 days privilege leave standing to her credit which she was willing to surrender in lieu of 90 days notice period, the respondent Company had adjusted the 75 days privilege leave as forming part of 90 days notice period and hence called upon the writ petitioner to pay for the balance 15 days salary and allowances. The respondent has also pointed out that the resignation submitted by the writ petitioner has been accepted strictly in accordance with the request made by the petitioner to relieve her from service with effect from 2.5.1997. The respondent has asserted that the writ petitioner herself had corrected the entries made in the proforma of the application submitted by her soliciting to be relieved with effect from 2.5.1997 and therefore, the respondent is justified in directing the writ petitioner to pay for the shortfall of 15 days notice period.

However, the learned counsel for the petitioner has pointed out that the amounts which were liable to be paid by the petitioner towards the shortfall of 15 days notice period have been since recovered by the respondent Company from the various amounts payable to the writ petitioner. The learned counsel has also pointed out that pursuant to the institution of this writ petition, the respondent Company has since settled the rest of the dues payable to the writ petitioner such as the amount of gratuity etc., and has processed her claim for payment of provident fund arrears for the period of service rendered by her.

Therefore, the entire controversy centers around as to whether the respondent is justified in recovering the salary and allowances

representing 15 days short fall of the notice period from the dues payable to the writ petitioner or not. It is not in dispute that the writ petitioner having rendered considerable period of service with the Singareni Collieries had preferred to bring about termination of the relationship of master and servant by submitting resignation to her services. It is also not in dispute that for bringing about such voluntary cessation of services, a ninety day-notice is required to be issued by the petitioner or in lieu of such a notice, the salary equivalent to ninety days has got to be paid. However, since, there was 75 days privilege leave lying accumulated to her credit, the writ petitioner has suggested the same to be treated as forming part of /set off towards ninety day-notice period which the respondent has accepted. Still, there is left over balance of 15 days shortfall. Therefore, the respondent Company is justified in effecting recovery of salary and allowances equivalent to 15 days short fall of the notice period. However, the respondent Company is not justified in withholding the terminal benefits payable to the writ petitioner such as payment of gratuity and provident fund etc., Since the same have either been paid or being processed, the writ petition does not deserve any further adjudication except to the extent indicated supra.

With this, the writ petition stands dismissed, but however, without costs.

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NOOTY RAMA MOHANA RAO.J.

20.8.2007

psr